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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---------------|----------------------|--------------------------|------------------|
| 10/784,478 | 02/23/2004 | Paul Haefner | GUID.606PA | 1794 |
| 51294 | 7590 | 01/15/2008 | EXAMINER | |
| HOLLINGSWORTH & FUNK, LLC 8009 34TH AVE S. SUITE 125 MINNEAPOLIS, MN 55425 | | | KAHELIN, MICHAEL WILLIAM | |
| ART UNIT | PAPER NUMBER | | | |
| | 3762 | | | |
| MAIL DATE | DELIVERY MODE | | | |
| 01/15/2008 | PAPER | | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | |
|---|------------------------|---------------------|
| Advisory Action Before the Filing of an Appeal Brief | Application No. | Applicant(s) |
| | 10/784,478 | HAEFNER, PAUL |
| | Examiner | Art Unit |
| | Michael Kahelin | 3762 |

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

THE REPLY FILED 27 December 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

a) The period for reply expires 3 months from the mailing date of the final rejection.
 b) The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) They raise the issue of new matter (see NOTE below);
 (c) They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. Applicant's reply has overcome the following rejection(s): _____.

6. Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. For purposes of appeal, the proposed amendment(s): a) will not be entered, or b) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: _____

Claim(s) withdrawn from consideration: _____

AFFIDAVIT OR OTHER EVIDENCE

8. The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
Please see attached "Detailed Action".

12. Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____

13. Other: _____

MRK
1/8/08

GEORGE R. EVANISKO
PRIMARY EXAMINER

1/11/08

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 12/27/2007 have been fully considered but they are not persuasive. Applicant argued that Diack (Re. 30,750) fails to disclose "source separation" because signals the bandpass-filtered signals are not separated according to their sources, but only using various frequencies. However, the Examiner is interpreting "source separation" in its broadest reasonable sense, without importing further limitation of the term from Applicant's specification. As such, the grounds set forth in the previous Office Action are maintained; namely that Diack separates a desired source signal (a clean ECG signal) from undesired noise sources (muscle, EMI, etc.), thus constitutes "source separation."
2. Applicant further argued that Diack's disclosure at Table I does not meet the limitation of "verifying that the separated signal is a cardiac signal using the separated signal and the non-electrophysiological cardiac source information" because selecting a therapy does not constitute confirming or rejecting a signal as actually being a separated cardiac signal. Examiner maintains the previous grounds of rejection wherein "a cardiac signal" is Diack's "normal" cardiac signal (resulting in the "None" therapy). Diack's device verifies that the separated signal (bandpass-filtered ECG) is a "normal" cardiac signal using the separated signal and "respir. sensor."
3. Applicant further argued that Yomtov's disclosure of an R-wave detector is not "source separation" because the R-wave and the remaining portion of the signal come

from a common cardiac source. However, the Examiner is applying a broad interpretation to "source separation," as indicated above. For instance, there is nothing in the claim language that requires that the sources cannot be from different areas of the same heart (as in P and R waves), or different "sources" in time. Yomtov can be interpreted as utilizing source separation because the method separates desired signal sources from undesired.

4. Applicant further argued that Yomtov does not "verify" signals using two channels. Examiner maintains the position of the previous Office Action, and again cites column 17, lines 40-56, and Figure 8A, steps 170, 176, and 178, providing a clear disclosure of verifying using both channels. If the two channels contain valid data, the signal is a cardiac signal, and if the two channels contain invalid data, the signal is noise.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Kahelin whose telephone number is (571) 272-8688. The examiner can normally be reached on M-F, 8-4.

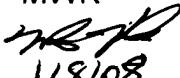
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Sykes can be reached on (571) 272-4955. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MWK


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GEORGE R. EVANISKO
PRIMARY EXAMINER

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